



**THE CITY OF NEW YORK  
LAW DEPARTMENT**

100 CHURCH STREET  
NEW YORK, N.Y. 10007

**GEORGIA M. PESTANA**  
Corporation Counsel

**MICHAEL VIVIANO**  
*Assistant Corporation Counsel*  
Tel.: (212) 356-2368  
mviviano@law.nyc.gov

February 23, 2022

**VIA ECF**

Honorable Katherine Polk Failla  
United States District Judge  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

**MEMO ENDORSED**

Re: Austin Babb v. City of New York., et al., 21-CV-8655 (KPF)-(KHP)

Your Honor:

I am an Assistant Corporation Counsel in the office of Georgia M. Pestana, Corporation Counsel of the City of New York, representing defendants City of New York, and Steven Smith in the above-referenced matter. Defendants write respectfully to request that the Court permanently seal Civil Docket Sheet Entry No. 16. This request is made due to Defendants inadvertent upload of privileged work product material. The inadvertent production does not constitute a waiver of the attorney-client privilege, deliberative process privilege, or the protection afforded to work product materials. Defendants are filing with the Court an appropriate copy of Defendants Answer simultaneously with this letter motion. Defendants have made no previous request of this nature.

Accordingly, Defendants respectfully request that the Court permanently seal Defendants Civil Docket Sheet Entry No. 16.

Thank you for your consideration herein.

Respectfully submitted,

*Michael Viviano /s/*

Assistant Corporation Counsel

cc: Joel Barry Rudin (VIA ECF)

Application GRANTED. The document filed at docket entry 16 shall be stricken from the docket. The Clerk of Court is directed to terminate the pending motion at docket entry 17.

Dated: February 24, 2022  
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE